IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 3048 of 2004(K)

PETITIONER:

DR.BENOY MATHEW, S/O. DR. V.C.MATHEW,
VALIAKULANGARA, KACHERITHAZHAM, MARADY VILLAGE,
MUVATTUPUZHA.

BY ADV. SRI.M.V.SOMARAJAN

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VAIDYUTHI BHAVAN,
TRIVANDRUM.

2. THE EXECUTIVE ENGINEER, K.S.E.B.,
MUVATTUPUZHA.

3. THE ASSISTANT EXECUTIVE ENGINEER,
K.S.E.B., MUVATTUPUZHA.

4. THE ASSISTANT ENGINEER, K.S.E.B.,
MUVATTUPUZHA.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
SRI.KODOTH SREEDHARAN, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 3048/04

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE COMMON JUDGMENT IN WP.C.25711/03 AND W.P.C.25682/03 DT.12.8.2003.

EXT.P2 : TRUE COPY OF THEL ETTER NO.DB NO.SSD/03-04/BMI/1.9.2003 ISSUED BY THE THIRD RESPONDENT.

EXT.P3 : TRUE COPY OF THE LETTER OF REMINDER DT. 27.10.2003 SENT BY THE PETITIONER TO THE THIRD RESPONDENT.

EXT.P4 : TRUE COPY OF THE ORDER NO.GB1/25711/03/1726 DT. 10.12.2003 WITH REFERENCE TO JUDGMENT DT. 12.8.2003 IN W.P.C.NO.25682 AND 25711/03 PASSED BY THE SECOND RESPONDENT.

EXT.P5 :TRUE COPY OF THE ADDITIONAL PENAL ASSESSMENT BILL DT. 7.1.2004 FOR RS.4000/- ISSUED BY THE 4TH RESPONDENT.

EXT.P5A: TRUE COPY OF INVOICE NO.23113 DT. 5.1.2004 FOR RS.4000 ISSUED BY THE 4TH RESPONDENT.

TGS

KURIAN JOSEPH J.

W.P.(C) No.3048 of 2004

Dated 27th July, 2007.

J U D G M E N T

Petitioner is aggrieved by Ext.P5 order passed by the second respondent and the consequential Ext.P5(a) bill issued by the third respondent. The issue pertains to penalty billing on account of the alleged unauthorised temporary extension. In the judgment in O.P.No.3054/01, this Court has already held that even in the case of temporary extension, penalty cannot be imposed under LT-VIII tariff, instead penalty has to be limited to fixed charges. Therefore, I quash Ext.P5 with a direction to the third respondent to issue revised demands limiting the penalty to fixed charges for the period of the alleged unauthorised temporary extension.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 1st August, 2007.